United Nations CCPR/C/SR.2181

International Covenant on Civil and Political Rights

Distr.: General
9 August 2004

Original: English

Human Rights Committee
Eighteenth session

Summary record of the 2181st meeting
Held at Headquarters, New York, on Wednesday, 24 March 2004, at 3 p.m.

Chairperson: Mr. Amor

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

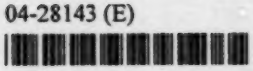
Second periodic report of Lithuania

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

Any corrections to the record of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

04-28143 (E)



The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Second periodic report of Lithuania
(CCPR/C/LTU/2003/2, CCPR/C/80/L/LTU)

1. *At the invitation of the Chairperson, the delegation of Lithuania took places at the Committee table.*

2. **Mr. Adomavičius** (Lithuania), introducing the report, stressed the importance of domestic implementation of international human rights instruments and recognized the importance of the work of bodies like the Human Rights Committee. His delegation's report provided information on legislative and administrative measures adopted in compliance with the provisions of the Covenant between 1997 and 1 September 2002. It had been prepared in consultation with civil society, including non-governmental organizations, was a public document and was available on the Internet.

3. Among the important developments since September 2002 he noted that the parliament of the Republic of Lithuania had ratified a number of international treaties, including Additional Protocol 13 to the European Convention on Human Rights, which abolished the death penalty. His Government was actively cooperating with regional and international human rights bodies in the belief that an open and proactive approach to its international human rights obligations was important for strengthening human rights. In that context, he recalled that since September 2002 the Committee had examined two communications involving Lithuania and pointed out that his Government had rapidly adopted measures to give effect to the views of the Committee.

4. A major reform of the legal system had been undertaken in 2003 to bring Lithuania's legal and correctional system into line with the highest human rights standards, including protection of victims and humanized punishments. Significant progress had also been made in providing additional procedural rights and guarantees to vulnerable groups. Following the entry into force of the Civil Code on 1 July 2001, the Code of Civil Procedure and the Labour Code had come into effect on 1 January 2003, followed by the new Criminal Code, the Code of Criminal Procedure and the Code of the Enforcement of Punishments on 1 May 2003.

5. The new Criminal Code provided for a more flexible punishment policy, including shorter periods of detention, more use of suspended and non-custodial sentences and alternative punishments such as deprivation of public rights or of the right to work in a certain job, community service, restriction of liberty and short-term imprisonment from 15 to 90 days. The new Code of Criminal Procedure was aimed at accelerating criminal proceedings and making the criminal justice system more efficient, for example through the use of conciliation. The Code also provided for two new remand measures: confiscation of identity documents and periodic reporting to the police. The Code also shortened pre-trial detention and reduced the number of crimes to which pre-trial detention could be applied. The Code of Enforcement of Punishments improved prison conditions, protected inmates' human rights and increased the use of conditional release. Its underlying principle was that punishment should not involve torture or inhuman or degrading treatment.

6. Civil law had been reformed by the Civil Code and the Code of Civil Procedure. The latter ensured expeditious hearing of cases and provided greater protection against undue delays. The new Labour Code created more flexible conditions for social dialogue, in keeping with the new economic realities in Lithuania; it explicitly prohibited discrimination in the labour market.

7. A number of other important measures had also been adopted recently. Article 119 of the Constitution and the Law on Municipal Elections had been amended to allow non-citizen permanent residents to vote in local elections and stand for election to municipal councils. The Law on Equal Opportunities, which would enter into force on 1 January 2005, extended the competence of the Office of the Ombudsman on Equal Opportunities to all types of discrimination, rather than merely cases related to gender equality. The Law on Associations regulated the activities of public organizations and associations and guaranteed freedom of association.

8. In November 2002, the National Action Plan for the Protection and Promotion of Human Rights, a national human rights action plan, as recommended in the Vienna Declaration and Programme of Action, had

been adopted by Parliament. One of its main objectives was to ensure continuous monitoring of the human rights situation with the active participation of the non-governmental organization community. As a result, surveys and educational materials aimed at protecting the rights of disabled and elderly persons had been published, and awareness campaigns had been conducted on the prevention of trafficking of and violence against women and on intolerance, racism, xenophobia and homophobia.

9. His Government was also implementing a number of national programmes in cooperation with other, mostly non-governmental organizations. The National Programme for Control and Prevention of Trafficking in Human Beings and Prostitution (2002-2004) included educational, socio-economic, health and legal initiatives; the National Programme on Equal Opportunities for Women and Men (2003-2004) which included activities in the areas of employment, education, politics and decision-making; the Programme for the Integration of Roma into Lithuanian Society (2000-2004) acknowledged the specific problems faced by the Roma and provided budgetary resources for integration and development activities; and a programme had been launched to renovate pre-trial detention facilities and improve prison conditions during the period 2003-2007.

10. **The Chairperson** invited the delegation to address the list of issues (CCPR/C/80/L/LTU).

Constitutional and legal framework in which the Covenant is implemented (art. 2)

11. **Mr. Adomavičius** (Lithuania), commenting on the application of the Covenant by national courts (question 1), said that international treaties ratified by Parliament were directly applicable within the Lithuanian legal system and noted that the provisions of the Covenant were fully incorporated into national legislation. Accordingly, national courts generally invoked the national laws which implemented the provisions of the Covenant instead of referring to the Covenant directly. The Constitutional Court had referred to the Covenant in its rulings on several occasions.

12. Turning to question 2 on human rights violations by State authorities, and on the Parliamentary Ombudsmen, he said that under articles 6.271 and 6.272 of the Civil Code, the State must provide compensation for unlawful acts by public authorities, including legal and judicial authorities; compensation could take the form of both monetary and non-monetary damages. The Law on the Compensation for Damage Arising from Unlawful Actions of Institutions of Public Authority of 21 May 2002 established the procedure for compensation, as well as a non-judicial procedure for compensation for unlawful conviction, detention or arrest. The Law on Legal Assistance Guaranteed by the State of 1 January 2001 guaranteed legal assistance for the victims of abuses on the part of public authorities.

13. The Office of the Parliamentary Ombudsmen, established in December 1994, was directly financed from the State budget and was accountable only to Parliament. The Ombudsmen investigated complaints of abuse of office on the part of the authorities, both federal and local, as well as the military. In 2003, the Ombudsmen had examined 2,000 private complaints and 219 referrals from Parliament and had initiated 28 investigations. Approximately 44 per cent of complaints involved property rights, 26 per cent the actions of correctional officers and 13 per cent the actions of police officers. The Ombudsmen had taken decisions in 1,200 cases and almost 70 per cent of their recommendations had been implemented. The Ombudsmen expected replies to their enquiries from supervisory officers but only monitored implementation of their decisions in serious cases because of the large number of complaints received.

14. The Parliamentary Committee of Human Rights was responsible for bills dealing with human rights issues, as well as for ensuring that legislation was in conformity with international instruments. It also supervised implementation of the National Action Plan on Human Rights by government and other institutions and investigated individual complaints about the work of the Parliamentary Ombudsmen.

15. Turning to the compatibility of counter-terrorism measures with the Covenant (question 3), he said that his Government had adopted a national anti-terrorism programme in 2002 aimed to ensure that counter-terrorism efforts would be in conformity with international human rights instruments, including the Covenant. In 2003, his Government, in cooperation with the United Nations Office on Drugs and Crime, had organized a seminar on the Ratification and Implementation of the Universal Anti-Terrorism Instruments in the Baltic Sea States. One of the topics

of discussion had been the incorporation of human rights issues in anti-terrorist legislation. He also referred Committee members to the reports submitted by his Government to the Counter-Terrorism Committee.

Equality, Prohibition of Discrimination and Rights of Minorities (arts. 3, 26 and 27)

16. In response to question 4 on the Ombudsman for Equal Opportunities, he explained that the Office of the Ombudsman, established in 1999, was an independent public institution accountable to Parliament which investigated complaints of discrimination on the grounds of sex or age. In 2003 the Office had undertaken 106 investigations of violations involving government institutions. The decisions of the Ombudsman were implemented not only by government-owned institutions but also by the private sector. All the Ombudsman's recommendations had been implemented through new legislation or amendments of existing legislation, or would be implemented by being incorporated in legislation currently being drafted. In November 2003, the Parliament had adopted the Law on Equal Opportunities; it would come into force in January 2005, and it charged the Office of the Ombudsman for Equal Opportunities for Women and Men also to investigate cases of alleged discrimination on the grounds of age, sexual orientation, disability, race, ethnic origin, religion or beliefs.

17. As for remedies for victims of discrimination (question 5), he said that although existing legislation did not provide for monetary compensation for moral damage to the victims of gender discrimination, proposed amendments to the Law on the Equal Opportunities of Men and Women would give the victims of gender discrimination or sexual harassment the right to claim monetary or non-monetary damages. The Administrative Code provided for fines of up to US$ 700 for both private companies and government institutions found guilty of gender discrimination or discriminatory advertising; repeat violations were punishable by a fine of between US$ 70 and US$ 1,400.

18. In 2003 the Ombudsman for Equal Opportunities had required 125 private companies and one government institution to submit an explanatory statement on discriminatory advertisements. The Ombudsman had investigated 41 claims of workplace discrimination; 14 employers had been fined and warnings had been issued to the others. The Ombudsman had also sent 125 letters regarding age or gender discrimination in advertisements, which in most cased resulted in resolution of the problems.

19. In 2000 a National Programme for the Integration of the Roma (2000-2004) had been adopted (question 6). The programme dealt with four major issues: education, social welfare, health care and preservation of the national identity of the Roma people and was aimed in particular at improving the living conditions of the largest and most deprived Roma community, which consisted of 450 persons living in Vilnius. The Roma Community Centre had been established in 2001 and a health-care centre had begun operations in November 2003. Education of Roma children and their integration into society were priorities: in 2003 two pre-school classes had been organized for Roma children, who were provided with free textbooks and materials and free lunch. In 2003 the first textbook in the Roma language had been published and Roma children had access to activities in the arts, computer literacy including free Internet access and special activities for teenagers.

20. Adults were offered Lithuanian language training courses, seminars and discussions and twice a month a legal adviser provided free legal consultations. The second stage of the programme, currently being prepared, would include measures for housing, employment and access to education. Moreover, seminars on Roma culture, traditions and way of life were being prepared for media as were special training courses for police officers working in the area of the Roma community.

Right to life; prohibition of torture; obligation to treat detainees humanely (arts. 6, 7 and 10)

21. The fight against domestic violence (question 7) was a priority; the National Equal Opportunities Programme of 2003, for example, focused on related issues. It envisaged strengthening of legal measures dealing with domestic violence, including isolation of the offender, development of a network of crisis centres to support victims and work with offenders, support for related non-governmental organizations, increased public awareness and dissemination of information to victims. Special training would also be provided to lawyers, police officers, teachers, social workers and doctors.

22. Support, shelter, counselling and legal assistance were available to victims at 16 recently established Crisis Centres for Women and a Crisis and Information Centre for Men. Civil society organizations also played a significant role in providing assistance to victims and organizing public awareness campaigns. According to surveys undertaken in 2001-2002, up to 82 per cent of female respondents over 16 years of age had experienced psychological violence and 35 per cent had been subjected to physical violence at home.

23. In 2002, his Government had approved the Immediate Action Plan for the Prevention of Violence against Children, which set out the obligation of government institutions and the police to provide support to child victims. Public awareness campaigns had been organized to reduce tolerance of crimes against children, develop citizenship and inform the public about appropriate methods for raising children. In 2001 documentation and special training had been provided to police officers, prosecutors, judges, social workers, teachers, etc., who worked with sexually abused children. In 2002, 1,134 cases of violence against children had been registered, 8 per cent of them involving sexual abuse and 27 per cent violence inflicted by family members.

24. In response to question 8 on the use of excessive force by the police and the military, he noted that offenders were liable to punishment under the Regulations on Military Discipline and the Law on the Organization of the National Defence System and Military Service. Servicemen could appeal against the unlawful use of force through the regular chain of command and subsequently to the Inspector General of the Ministry of National Defence, whose decisions could be appealed to the Minister of National Defence himself. Complaints of the unlawful use of force on the part of a serviceman were dealt with by the ordinary courts and the Criminal Code.

25. With regard to prison conditions (question 9), he said that adoption of the new Criminal Code, Code of Criminal Procedure and Code of Enforcement of Punishments had transformed the criminal justice system. Now, punishment more closely suited the offence, pre-trial criminal procedures had been shortened, alternative punishments to imprisonment were imposed more frequently and there were greater prospects of conditional discharge. As a result, the prison population had decreased from nearly 11,000 in May 2003 to just over 8,000 in December 2003. Prison conditions had also improved considerably and more space had been allocated for rest, education and sports facilities. Religious services were available, inmates had unrestricted access to lawyers, and full health care was available. Conditions met the provisions of the United Nations Standard Minimum Rules for the Treatment of Prisoners as well as the European Prison Rules. Training on the application of these rules was provided to correctional officers.

26. In connection with ill-treatment of detainees (question 10), he said the United Nations and European Rules and the New Code of Enforcement of Punishments established a classification system for convicts which ensured safer conditions, facilitated administration and encouraged good behaviour. All detainees had the right to make statements, requests or complaints to the institutional authorities, government, non-governmental organizations and international institutions. In 2003, 31 investigations of bodily injuries inflicted by other inmates had resulted in two court cases and three indictments. In addition, five investigations had been launched into ill-treatment of prisoners by correctional officers.

27. Finally, with regard to conditions in police custody (question 11), he said that approximately US$ 10 million had been allocated to the Programme for the Renovation of Policy Custody Facilities and Improvement of Detention Conditions (2003-2007). The aim of the programme was to ensure respect for fundamental human rights for individuals in police custody and to provide a safe environment for detainees as well as police. New police custody facilities would be constructed and existing facilities would be refurbished.

28. **Mr. Yalden** asked whether the Ombudsman for Equal Opportunities had the power to bring court action and requested more information about the activities of the Ombudsman in the private sector. A draft Law on Equal Opportunities would prohibit a broad range of discriminatory activities, including those relating to age and sexual orientation. Further clarification was required regarding the way in which that new law would work in relation to the Labour Code of January 2003, as well as the Ombudsman's proposed activities to combat discrimination. The new amendment would allow for the award of pecuniary compensation for damage to victims of discrimination, which was not possible under existing legislation. It would be useful to learn how that amendment would

work in practice, particularly in the case of individuals who were employees and whose activities were also regulated by the Labour Code. With regard to question 6 on the list of issues, the plans for the integration of the Roma that were mentioned in the report and in the delegation's replies were impressive. The problem of the Roma was very serious across Europe and they were at the bottom of the social scale in terms of income, employment, education, housing and health care. The Roma suffered everyday discrimination at the hands of the police and local people. The outlook seemed bleak and it was uncertain what the national programmes for integration for the next four years would achieve.

29. **Mr. Wieruszewski** said that the report reflected how seriously the Government took its obligations towards the Committee and it was particularly impressive that in the individual cases under the Optional Protocol, the Government had fully complied with the recommendations of the Committee. It was a matter of great concern that the Roma suffered such serious problems, especially with regard to gender equality, domestic violence and sex education. It would be interesting to learn if the Covenant was applied by the courts and if any reference had been made to the Committee in legal proceedings. Further details on the references to the Covenant by the Constitutional Court should be provided. The delegation had stated that national courts did not make use of the provisions of the Covenant because those provisions were fully incorporated in national legislation. However, the European Convention on Human Rights was also incorporated in national legislation and it was applied by the courts. Perhaps the reason for that discrepancy was a lack of knowledge about the Covenant in the judiciary.

30. It was also clear that there had been problems in implementing the Views of the Committee and he would welcome clarification concerning any special provisions in the law that would allow for the implementation of the Committee's decisions. That question had interesting implications for other States. With regard to the Ombudsman for Equal Opportunities, whereas 70 per cent of proposals had been taken into consideration, it was unclear what had happened to the other 30 per cent and if there had been further recourse to the court. The Committee would welcome additional information on what kind of cases were dealt with by the Ombudsman, particularly those involving police officers. More clarity was needed in respect of the Parliamentarian Committee, including its investigations and recommendations. In response to article 2 of the Covenant, it was important to learn to what extent all persons were equal under the Constitution, without distinction as to nationality and what was the position of stateless persons.

31. **Mr. Scheinin** said that it was particularly commendable that the report had focused on the issues raised by the Committee's Concluding Observations to the first periodic report. More information was required regarding the way in which the Government's legislation took into account the provisions of the Covenant. It was exceptional to have Government's assurance that all the counter-terrorism measures implemented conformed strictly to human rights laws and concerns. It was doubtful, however, if equal weight was given to those human rights concerns when the Government addressed the Counter-Terrorism Committee. In the latest three reports presented to the Counter-Terrorism Committee by the State party, not many human rights issues had been raised. One human rights issue had been mentioned in the third report.

32. In connection with the safeguards being implemented to prevent the abuse of refugee status by persons suspected of terrorist activities or other serious crimes, there were questions raised in relation to the Covenant's provisions. It was important to note the provision in the draft law regulating the legal status of foreigners on the issue of the suspensive effect of appeals on deportation decisions. The draft law stated that a decision to deport a person could not be suspended if that person was deemed to represent a threat to public order or health. It was problematic that a procedural remedy, such as the suspensive effect of an appeal, could be denied on the grounds of State security. Furthermore, the draft law invoked the principle of non-refoulement by stating that foreigners could not be deported to a country where there was a threat of torture, inhuman treatment or prosecution on grounds of race, religion, nationality, social group or political beliefs. However, that provision did not apply to foreigners who were considered a threat to the State or who stood accused of a serious crime. That was problematic in relation to the absolute nature of article 7 of the Covenant, which included the principle of non-refoulement.

33. In the Covenant there was no obligation for a State to provide refugee status but there was an

absolute prohibition on deporting a person to a country where there was a threat of torture or persecution. Furthermore, if a State has abolished capital punishment, it could not deport a person to another State that still practised capital punishment. Under the Covenant, a State had a duty to prosecute or deport a person safely and without violating article 6 or 7. Lithuania would become a member of the European Union in six weeks and the Charter of Fundamental Rights would apply, including specific laws on non-refoulement in respect of capital punishment.

34. On the question of domestic violence, more information was needed on the programmes for equal opportunities implemented by the Government. It was unclear whether there were mechanisms to isolate a perpetrator of domestic violence by ordering him or her to stay away from the family home. The reporting State should also be more specific about plans to establish an independent investigating mechanism for cases where excessive force had been used by the police or the army. The Committee had recognized the need for such a mechanism in 1997 and that proposal had been reiterated by the European Commission against Racism and Intolerance.

35. More data should be provided on alternative forms of punishment other than imprisonment. Paragraph 145 of the report listed the alternative punishments provided for by the Criminal Code, including disenfranchisement and deprivation of liberty for between 15 and 90 days. That list was problematic because the alternatives were not modern-day punishments. What was missing from the list was community service, including work for the public interest and compensation for the victims of crime. The implementation of community service was a proven way to improve prison conditions.

36. Paragraph 132 of the report stated that adults could be kept in the same prison cells as minors. Lithuania did not have a reservation to article 10 of the Convention, calling for the segregation of adults and minors, and that reference in the report did not argue for the interests of minors or mention exceptional circumstances. Furthermore, there were clear risks to the health of young women in Lithuania because of the lack of sex education in schools. There was a high rate of childbirth, abortions and HIV in young women between the ages of 15 and 19 and it would be interesting to learn what was being done to improve sex education for young girls and boys.

37. **Mr. Ando** said that the Committee would appreciate further information on what happened to the 30 per cent of the proposals not implemented by the Ombudsman for Equal Opportunities. Article 6.272 of the Civil Code established liability for damages caused by the unlawful acts of investigating officials, including judges. He wanted to know if unlawful acts of judges referred to procedural irregularities and what measures were in force to determine the unlawful nature of such acts.

38. **Mr. Bhagwati** said that it would be useful to have a full account of what criteria were used to determine the unlawful actions of judges and to know how many cases had come to light. From 1993 to July 2002, the Constitutional Court had received over 1,500 requests and inquiries raising doubts as to the constitutionality of a legal act. The reporting State should clarify how many legislative acts had been challenged by the Constitutional Court on the grounds of violation of human rights and if there was a commission to examine the validity of existing legislation in relation to the Covenant. As the Government had inherited a great deal of legislation from the previous regime, it was important to find out if that legislation took into account the human rights defended in the Covenant.

39. **Mr. Glélé Ahanhanzo** asked whether the Programme for the Integration of the Roma provided for separate or integrated education for Roma children, and what proportion of the Roma held public office and participated in political life. He also enquired about the Government's policy on the restitution of property to Lithuania's Jewish community. He would also like to hear more about the procedure specified for gaining access to the Constitutional Court and the ordinary courts by complainants of violations of the Covenant.

40. **Mr. Rivas Posada** asked for further information on the extrajudicial settlement procedures available under the promising new 2002 legislation governing the payment of compensation to victims of violations by public officials: for example, whether they included direct out-of-court settlements and arbitration or mediation, and how such extrajudicial agreements were approved by the Government and how payments were made.

41. **Mr. Depasquale** asked whether the findings on individual complaints by the Equal Opportunity Ombudsman were simply recommendations to be

followed voluntarily or decisions binding on both government and private institutions, and how their enforcement jibed with the competence of the courts. In the case of unlawful acts by public authorities, he too wondered what outside authority had the competence to judge whether a civil court judge had acted unlawfully — presumably it could only be a high court. Also, he would be interested in learning more about the results of the first stage of the Programme for the Integration of the Roma.

The meeting was suspended at 4.50 p.m. and resumed at 5.10 p.m.

42. **The Chairperson** invited the delegation to reply to the further queries from the Committee.

43. **Mr. Vidtmann** (Lithuania), observing that the Roma Community in Lithuania was very small — about 2,300 in the entire country and 450 in Vilnius, the capital city — said that the first stage of the national Programme for the Integration of the Roma had covered only those in Vilnius. The Department of Statistics had no data on unemployment among ethnic groups, but the Roma were known to have a higher rate than all others. The Integration Programme included measures to reduce their unemployment: as one example, the Lithuanian Job Training Centre had set up a special vocational training programme for the Roma which, however, the Roma community leaders had rejected.

44. There were no segregated schools for Roma children, who, like all others, attended the public schools. In the Roma Community Centre in Vilnius, there were two special classes for Roma pre-school children to teach them Lithuanian so that they could move easily into the public schools. In 2003, the first text book in the Roman language had been published. In the first stage of the Integration Programme, about 60 pre-schoolers had attended classes, 25 adults had successfully completed Lithuanian language courses in the Roma Community Centre, and 20 Roma young people had completed computer courses there. The Roma Community Centre was being strengthened and the Government had built a health centre for the Roma in Vilnius. Many Roma children from the capital city spent government-sponsored summer holidays on the Baltic Sea. Also, the infrastructure in Roma neighbourhoods — water systems, housing, roads — was being improved. The second stage of the Integration Programme was being prepared in consultation with Roma leaders.

45. In order to combat discrimination against the Roma, Lithuanian public radio and television had broadcast three programmes in 2002 and 2003 about Roma problems — stereotyping, and the like. In 2004, public television planned to air regularly a short programme for the Roma, but no Roma journalists had as yet been identified.

46. Most people in the small Roma Community were not well-educated and therefore their participation in public life and public office was low. In the next few years, however, the Roma non-governmental organization in the country would be more active and the Government believed that Roma leaders and people would begin to participate more in public life.

47. **Mr. Vidickas** (Lithuania), referring to immigration issues, said that a bill to reform the Act on the Legal Status of Aliens in order to bring it into line with international treaties had been prepared with the assistance of Dutch and Austrian experts and was currently before Parliament, with adoption expected later that month. The right of stateless persons — 9,000 of whom were living in Lithuania at the beginning of 2004 — to become naturalized citizens was regulated by the 2002 Citizenship Act, which set out all the provisions for the acquisition of Lithuanian citizenship. Article 9, paragraph 3 of the Act stipulated that a child, one of whose parents was a citizen at the time of the child's birth and one of whose parents was stateless, became a citizen regardless of the place of birth. Article 10 stipulated that a child of stateless permanent residents was to be considered a citizen and that a child of parents both of whom were unknown was to be deemed to have been born in the country and to be a citizen, unless contrary circumstances came to light.

48. **Ms. Milašiūtė** (Lithuania), a Foreign Ministry official, said that, while the Covenant had not been applied directly in the Lithuanian legal system, it had been invoked by the Constitutional Court on a number of occasions: in 2001, in reviewing the Lithuanian Criminal Code with regard to commutation of sentences (article 15, paragraph 1, of the Covenant) and, between 1998 and 2001, in examining the constitutionality of Lithuanian law with regard to compensation for unlawful acts of State institutions (article 14, paragraph 6, of the Covenant), the right of assembly (article 21 of the Covenant), capital

punishment (in practice, Lithuania denied requests for extradition to countries where capital punishment was legal), and a provision of the Code of Criminal Procedure (article 14 of the Covenant).

49. With regard to legal reforms, she said that, since Lithuania's independence, its Government, particularly the Parliament, through its Parliamentarian Committee of Human Rights, and the Constitutional Court, had been striving to modernize its domestic legislation and bring it into line with international human rights instruments. The Covenant enjoyed the same status as the European Convention for the Protection of Human Rights and Fundamental Freedoms and every effort was made to reflect the provisions of both in Lithuanian legislation.

50. Compensation for prejudice caused by State institutions was genera'ly based on a court finding of a procedural flaw. Issues that could not be resolved by the national courts were submitted to international entities such as the European Court of Human Rights or the Committee. The first time compensation had been paid to the author of a communication submitted to the Committee under the Optional Protocol, it had been dealt with under the Lithuanian Law on the Compensation of Damage Arising from Unlawful Actions of Institutions of Public Authority, which cited decisions of the European Court of Human Rights as a legal basis for compensation but made no mention of the Human Rights Committee. That particular case had been settled on an ad hoc basis following consultations between a representative of the Government and the author's counsel. Amendments to ensure that the Committee's Views would also constitute grounds for awarding damages in future had been approved by the Parliamentarian Committee on Legal Matters the week before and were expected to be adopted in the spring.

51. Similarly, the non-judicial procedure for awarding damages through the Ministry of Justice required a finding of a procedural flaw. If no agreement could be reached on a complaint filed with the Ministry of Justice, the matter could be brought before a court under the law on compensation.

52. Lithuania had appointed five Parliamentary Ombudsmen, including an Ombudsman for Equal Opportunities and an Ombudsman for the Rights of the Child both of whom were governed by special regulations. The Ombudsman for Equal Opportunities was empowered to examine cases of "administrative infringement" and to impose fines, including fines on persons who concealed or refused to provide information or otherwise cooperate in investigations. Decisions of the Ombudsman were enforceable, although they could be appealed, as in any other administrative procedure. The findings of other Parliamentary Ombudsmen, however, were merely recommendations, generally for repealing legislation. About 70 per cent of the recommendations of those Ombudsmen were implemented; other shortcomings would be addressed by the new framework laws.

53. Most of the work of the Ombudsman for Equal Opportunities in the private sector dealt with gender or age discrimination in job advertisements, which had to be rewritten and recirculated. Ombudsmen were legally barred from intervening in individuals' private or family lives.

54. With regard to the written reply to the Committee's additional questions, she said that amendments had been proposed to the 1998 Law on Equal Opportunities for Men and Women, which predated the Civil Code and made no mention of non-pecuniary compensation for moral damage in cases of gender discrimination. Pecuniary compensation could be claimed under the new Civil Code; non-pecuniary compensation had to be sought under specific legislation which guaranteed that right. The right to compensation was laid down generally in the Civil Code and in specific provisions of the Labour Code and the Law on Equal Opportunities for Men and Women.

55. It was still too soon to reply to the question on the future operation of the Law on Equal Opportunities, which was to enter into force on 1 January 2005.

56. **Ms. Plepytė-Jara** (Lithuania) said that the seven-member Parliamentarian Committee of Human Rights studied all human rights legislation and draft legislation (for example, the draft Aliens Act now before the Committee) and assessed their conformity with the provisions of international human rights instruments. Additionally, it laid the groundwork for ratification of international human rights instruments by the Parliament, made recommendations on budget allocations to the Office of the Human Rights Ombudsman and considered individual complaints which the Ombudsman's Office could not settle to the parties' satisfaction It had investigated seven such

cases in the autumn of 2003. Its commission charged with implementing the National Human Rights Action Plan — one of the Parliamentary Committee's chief responsibilities — met regularly with representatives of ministries and other institutions to assess progress with input from human rights non-governmental organizations (NGOs). The Parliamentarian Committee also met with officials of the Ministry of Justice and representatives of other institutions to assess the functioning and enforcement of legislation and draft any necessary amendments, which it then submitted to the Parliament. Lastly, it ran an active public awareness programme.

57. **Mr. Adomavičius** (Lithuania) said that the delegation needed more time to prepare its responses to, inter alia, the Committee's additional questions on restitution of property, the Code of Enforcement of Sentences and counter-terrorism measures, and would submit them in writing the following morning. From the outset, Lithuania had attached great importance to the Covenant, the first international instrument with which it had sought to align its domestic legislation upon gaining independence.

58. **The Chairperson** said that the Committee would be happy to accept the delegation's written submissions and take them into account in formulating its Concluding Observations but stressed the importance of dialogue and an exchange of views as well.

The meeting rose at 6 p.m.